

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 18-21, and 29 are amended. Claims 32-33 are added. Claims 1-14, 16-17, and 28 are cancelled. No new matter has been added. New claims 32-33 are supported by the specification at pages 7-8 and in the claims as originally filed.

After amending the claims as set forth above, claims 18-21, 29, and 32-33 are now pending for examination. Claims 15, 22-27, and 30-31 remain withdrawn.

I. Claim Rejection Under 35 U. S. C. § 112

Claims 14, 16, 19-21, 28, and 29 are rejected under 35 U.S.C. 112, first paragraph, as nonenabled. The rejection is based on the scope of “oxazoline” in independent claim 14.

Applicants consider this ground of rejection to be unfounded. Nevertheless, to further prosecution Applicants have amended the claims to obviate this ground of rejection. The claims now depend, directly or indirectly, from new claim 32, which refers to the following specific oxazolines:

2-undecyl-4-hydroxymethyl-4-methyl-1,3-oxazoline;

2-undecyl-4,4-dimethyl-1,3-oxazoline;

(E)-4,4-dimethyl-2-heptadec-8-enyl-1,3-oxazoline;

4-hydroxymethyl-4-methyl-2-heptadecyl-1,3-oxazoline;

(E)-4-hydroxymethyl-4-methyl-2-heptadec-8-enyl-1,3-oxazoline; and

2-undecyl-4-ethyl-4-hydroxymethyl-1,3-oxazoline.

Accordingly, Applicants request withdrawal of this ground of rejection.

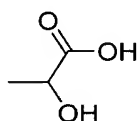
II. Claim Rejection Under 35 U. S. C. § 103

Claims 14, 16-21, 28 and 29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Rajadhyaksha et al (US 4,876,249) in view of Wampner (US 2,368,075).

The Office conceded that Rajadhyaksha “does not teach the oxazolines as promoting slimming” (Office Action, page 7, last line). Accordingly, the Office must rely on a second reference, Wampner, to construct a prima facie case of obviousness.

A fundamental flaw in the Office’s reasoning is in the complete lack of relevance of Wampner. This reference discloses compounds cosmetic preparation containing the reaction product of a lactic acid and an oxazoline. Wampner does not disclose any cosmetic use of an oxazoline in a free form containing no lactic acid moiety.

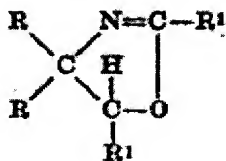
Lactic acid has the following structure:



Lactic Acid

Wampner states that the invention relates to “certain oxazoline derivatives (page 1, lines 1-4). Specifically, Wampner discloses that these oxazoline derivatives are reaction products of oxazoline and lactic acid (page 1, lines 16-28):

fects. In accordance with my invention, I am able to produce improved perspiration-inhibiting preparations by adding to an astringent composition containing a metal salt astringent or coagulant ingredient, from between about 5 and about 30 per cent of the reaction product of lactic acid and an oxazoline having the formula:



This passage clearly refers to “the reaction product of lactic acid and an oxazoline.” Wampner refers exclusively to reaction products of lactic acid and oxazolines:

“lactic acid reaction products of the foregoing oxazolines” (page 1, lines 46-47);

“lactic acid-oxazoline reaction products” (page 2, lines 56-57);

“reaction products of lactic acid and oxazolines” (page 2, lines 66-67);

“reaction product of lactic acid and 2-hendecyl-4-hydroxymethyl-4-methyloxazoline” (Example 1, page 2, lines 8-9); and

“Lactic acid reaction product of 2-octyl-4-hydroxymethyl-4-ethyloxazoline” (Example 2, page 2, lines 18-19).

Every single one of claims 1-7 refers to a “reaction product” of lactic acid and oxazolines.

Accordingly, Wampner cannot cure the deficiencies of Rajadhyaksha. The obviousness rejection is thus fatally deficient and must be withdrawn.

Further, Applicants respectfully submit that the Office mischaracterized the relevance of a disclosure of a cosmetic formulation with an astringent. The Office stated, “According to Stedman’s medical dictionary, an “astringent” is an agent that causes contraction or shrinkage of the tissues.” Office Action, page 8. The Office further stated, “Wampner teaches that oxazolines act as astringents in cosmetic applications. Thus, one would expect, with a reasonable degree of certainty, that oxazoline-containing topical formulations can be used to promote slimming”. Office Action, page 8.

Applicants submit that Wampner does not disclose that oxazolines act as astringents. Wampner states that the astringent component is “a metal salt astringent or coagulant ingredient” (page 1, lines 19-20). Wampner nowhere discloses that the oxazoline compounds are astringent. As noted above, Wampner relates to reaction products of oxazolines with lactic acid, and Wampner does not relate to the free oxazolines themselves. The reaction products of oxazoline and lactic acid are used to limit the undesirable acid effects of the metal salt astringent.

Moreover, Wampner discloses perspiration-inhibiting preparations. No person of ordinary skill in the art would consider deodorants or astringents to be effective as slimming agents. An astringent is a substance that contracts body tissue (enough to stop secretions but surely not enough to promote slimming) and inhibits glandular secretions.

The Office did not provide Applicants with a copy of the definition of “astringent” from Stedman’s Medical Dictionary. An online source provides the following, more complete, and illustrative definition: “Causing contraction of the tissues, arrest of secretion,

or control of bleeding.” The definition of “astringent” in The American Heritage® Science Dictionary is similar (“A substance or preparation, such as alum, that draws together or constricts body tissues, resulting in decreased flow of blood or other secretions”). The definitions indicate that astringents decrease secretions, such as perspiration.

Astringents do not promote slimming. It is false to say that an astringent, used in a deodorant composition, would promote slimming. A person skilled in the art, looking for slimming active agents, will not take into consideration a document disclosing perspiration-inhibiting preparations.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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